

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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CIVIL MINUTES - GENERAL

Case No.	CV 06-7496 CAS (SHx)	Date	July 23, 2008
Title	VERNON MINOW v. LEXUS		

Present: The Honorable	CHRISTINA A. SNYDER, U.S. DISTRICT JUDGE	
CATHERINE JEANG/ PAUL SONGCO	None	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	
None	None	
Proceedings:	(In Chambers): DEFENDANT’S MOTION FOR ATTORNEYS’ FEES (filed 7/2/08)	

The Court finds this motion appropriate for decision without oral argument. Fed. R. Civ. P. 78; Local Rule 7-15. The facts and procedural history of this case are known to the parties and summarized in the Court's June 19, 2008 order granting defendant's motion for summary judgment.

On July 2, 2008, defendant filed the instant motion for attorneys' fees.¹ Plaintiff, who proceeds in this action *pro se*, did not file an opposition to this motion. The Court has previously advised plaintiff that, pursuant to Local Rule 7-12, "[t]he failure to file any required paper, or the failure to file it within the deadline, may be deemed consent to the granting or denial of the motion." See June 19, 2008 Order at 4.

On July 22, 2008, plaintiff faxed to the Court and to the Clerk's office a notice of appeal of the Court's order granting defendant's motion for summary judgment. This notice of appeal has not been filed with the Court, and it does not appear that it has been served on defendant. On this document, plaintiff states that he did not receive notice of the instant motion until July 18, 2008, and that he is presently hospitalized. Plaintiff requests additional time to respond to the instant motion.

¹ This motion was filed within the 14-day deadline for the filing of such motions set forth in Fed. R. Civ. P. 54(d)(2)(B).

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In light of plaintiff's *pro se* status, the Court must take extra care to ensure that he has an opportunity to oppose defendant's motion for attorneys' fees. Accordingly, the Court will permit plaintiff to file an opposition to defendant's motion no later than August 6, 2008.

While the Court does not at this time conclude that defendant is entitled to an award of attorneys' fees, it observes that defendant had not adequately shown that the award that it requests is reasonable. Defendant seeks attorneys' fees in the amount of \$58,254. Defendant calculates this fee award using the lodestar method: according to defendant, its counsel worked on this case for 204.40 hours, at a rate of \$285 per hour. In support of its contention that its counsel's fee rate is reasonable, defendant proffers its own counsel's declaration. See Declaration of Peter J. Anderson ¶ 2.

The Court declines to accept at face value counsel's declaration that his fee rate reflects that charged by other attorneys of comparable skill and experience in the Los Angeles legal market. Defendant is therefore directed to submit to the Court, no later than August 6, 2008, a third-party declaration as to the reasonable attorneys' fee rates in the Los Angeles legal market.

The Court admonishes both parties that no further continuances shall be granted in connection with this or any other brief filed by the parties in this action. Plaintiff is further admonished that his failure to file a responsive brief in this matter by the deadline set forth herein may be deemed consent to the granting of defendant's motion for attorneys' fees. Local Rule 7-12.

Upon the filing of the parties' respective papers or upon the passing of the deadline for the filing of said papers, whichever is earlier, the matter shall stand submitted, and the Court shall issue a ruling on defendant's motion for attorneys' fees in due course.

IT IS SO ORDERED.

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